



Refutation of the Argument of the Article in Defense of Abortion Written by Judith Jarvis Thomson

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Abstract

Sociolinguistics is a discipline of linguistics that examines how language and society interact. When communicating with others, each person in the world has their own distinctive language style. People who speak a variety of languages can combine different languages into a single speech; this is known as code-mixing in sociolinguistics. This study, which is qualitative in nature, looks at the many kinds of code mixing that teacher employ when teaching English as a second language (ELT) in the classroom. Data collection for this study used the documentation technique. Speeches made by English teachers and students in the school's ELT classes were recorded and then qualitatively examined to form the study's quantitative data. The research revealed that extrasentential code-mixing was primarily used by the teachers. The purpose of the usage of code-mixing was to make explanations and inquiries about the study materials clearer.

Keywords: *Code Mixing; Teaching and Learning Process; Qualitative Method*

Introduction

In England and America until the 19th century, abortion was a crime after feeling the movement of the fetus in the mother's womb. Even in the Parliament of England, taking into account the life of the fetus from the time of conception, in 1869 the punishment for abortion was considered from the first moment of the birth of the sperm. In the United States, since the middle of the 19th century, abortion prescription laws have been enacted.

For example, in America in 1959, a legal plan was prepared, by which the conditions for prescribing abortion were expanded; first in three states and then in other states of North America. In America, this discussion has been one of the main issues in the presidential elections, such as the competition between Obama and McCain in 2008. Basically, the Republican Party and the red states have a stricter approach than the Democratic Party and the blue states. (Seyyed Ali Mousavi and others, "Historical and legal process of abortion in America and the role of women's movements in its decision-making process", *Women's Research*, 2, 5(2011), 17)

In western countries, the discussion of abortion was first about illegitimate and unhealthy children but little by little, it was spread by feminists in other cases as well. (Seyyed Hassan Islami, "Ethical approaches to abortion", first edition, Tehran, Samt, 2007, 148)

Recent studies in the West show that the rate of mothers' death in countries where abortion is prohibited is much higher than in countries that allow abortion. Also, among married women in order to control family members, there are more women with illegitimate relationships (Fatemeh Ahmadi, "Fetus's Civil Rights", v. 1, p. 101).

In America and Europe, pregnancy and its prevention or termination is a woman's right, and judicial authorities cannot prevent this right. Of course, in these societies, abortion is not only viewed from a moral and legal point of view, but economic, social and even political dimensions are also effective in this issue. In America, Planned Parenthood Institute works in matters such as abortion, distribution of contraception means and family planning counseling.

1-Rights of Fetus in Ancient Times

Fetus rights in ancient times:

In early human tribes, the right to keep the fetus or the woman herself belonged to the father and the man. This right was subject to the economic, social and sometimes natural conditions of that time. For example, the child's inability to work in agriculture, etc. and of course, congenital defects have also been effective in the father's decision. At that time, abortion was also performed by various methods, including heavy sports, using heat in different parts of the body and various potions. In Hammurabi's law (around 2500 BC) abortion was mentioned and a punishment was determined for it. (Will Durant, "History of Civilization; Eastern, the Cradle of Civilization", translated by Ahmad Aram, vol. 2, p. 131)

In ancient Iran, abortifacient drugs were known, and abortion was an unforgivable sin that was punished. Therefore, it can be acknowledged that during this period, the fetus had rights, albeit in a limited way. (Ali Mehrabani, "Study on the crime of abortion from the perspective of legal and religious judgments and fatwas of scholars", Judicial Magazine, 29, 5, (2001))

2- Fetus Rights in the West

Socrates considered abortion to be subject to the mother's permission, and Aristotle also allowed it in large families.

Hippocrates also considered it forbidden in his oath. (Alireza Maithami, "Beliefs of Socrates, Aristotle, Hippocrates and the followers of different religions about abortion", Laws of Today 2 (1963) 23)

In ancient Greece and Rome, until the 19th century, abortion was a normal method of population control, but in the 19th century, heavy criminal laws were established in this regard. After the 19th century in the Soviet Union, the government allowed it according to the mother's request. In 1950 AD, abortion was conditionally permitted in other countries, for example, in Japan and some eastern countries, it was declared permitted upon the request of the man.

This issue took place under the influence of some factors such as the abortion freedom movement based on women's rights and governments concern about population growth and the increase in the number of mothers who died due to illegal abortions.

In 2008-2009, this institution received 363 million dollars in government financial assistance and stated on its website that only in 2008, it performed 324,000 abortions.

The target society of this institution is also the poor people of America.

Insurance companies are also promoters of abortion in America because abortion is cheaper than other costs. Margaret Sanger, the founder of this institution, in her book titled "Woman, morality & birth control", which was published in 1992, believes that birth control will lead to a superior race and will lead to a better economy and fewer economic and biological problems. (Seyyed Sa'eed Shirangi, "The Big Business of Abortion", *Tourism of the West*, 104(1391), 35-36)

In the West, the French Penal Code provides punishment for someone who aborts a pregnant woman's fetus or intends to do so. Although in the French public health law, some conditions have been determined for a woman to request an abortion, one of which is poverty, and a woman can use these conditions before the tenth week.

3- The Rights of the Fetus in Divine Religions

In the Torah, intentional abortion is forbidden, but it is not considered intentional murder, and if a pregnant woman is beaten during a conflict or war and the fetus is aborted, the compensation determined by the woman's husband must be paid in the presence of referees.

The reasoning of Jewish scholars is that if sexual intercourse during pregnancy causes damage to the fetus, the parties are guilty, let alone abortion.

According to the Talmud, if a woman is in danger during childbirth, her life is more important than saving the fetus

Of course, this law is accepted as long as the fetus has not left the womb. Jewish scholars disagree on the permissibility of abortion resulting from adultery of married women, and they mainly agree with the permissibility of abortion because they consider it to be a bastard child. But they do not disagree on the fact that abortion of the fetus resulted from the adultery of an unmarried woman is not allowed because the child is not a bastard. In the case of a pregnant woman sentenced to death, they will definitely prescribe an abortion even before the beginning of childbirth. But according to Jewish moral and mystical teachings, abortion is an insult to God's creation. (Hossein Soleimani, "Abortion in Judaism", Vol. 1, Tehran, Samt, (2007), 366)

In Christianity, judgments about abortion are based on their view to the moral status of the fetus, and there are three views:

- 1) The fetus is just a tissue and nothing else.
- 2) The fetus is a potential human being.
- 3) The fetus is a complete human being and has all the rights of other human beings.

The Roman Catholic Church has accepted the third point of view. The first explicit prohibition of abortion in Christianity is in the Guiding Book of Christian teachings called *Didache*.

In this book, He entrusted the glorious task of preserving life to humans. (Habib Zeinali, "Examination of the views and attitudes of the great divine religions, Islam, Christianity, Judaism and Zoroastrianism towards the problem of population growth", Islamic Azad University, Tehran Central Branch, 2004)

In Islam, in pre-Islamic Arabia, there were economic and social reasons, such as premature burial of girls. (Maryam Ardabili, "Whose benefit is the massacre of fetuses?", Book Review, 31, (2008), 60)

In Islam, the rights of the fetus are recognized; rights such as alimony, inheritance, will and endowment. (Alireza Rad, "Iranian law in the mirror of history", v. 1, Shiraz, Navid (1999), 14)

In Islam, there are regulations even for the corpse of a fetus.

2- Opinions about Abortion

According to the different attitudes that existed in the past about abortion and it was mentioned, there are still different views in this field in the West, which we will discuss briefly below:

2-1- Conservative View

According to this view, the ugliness of abortion is equivalent to killing an adult human being. This view prevailed in the West until the late 1950s. (Mohammad Hassan Mohammadi Volojerdi, "Jurisprudential and legal review of abortion", Faculty of Law, Qom University, 2012, 91)

2-2- Liberal Point of View

This point of view is opposite to the conservative point of view and does not recognize any reason for the immorality of abortion and recognizes itself as pro-choice.

They do not consider the fetus as a human being and some of them consider the fetus to be equivalent to an appendage or a tumor. They don't even know it as a potential human. (Morteza Tabibi Jebeli, "Examination and criticism of the theory of permissibility of abortion", useful letter 37 (2003), 78)

Peter Singer, one of the supporters of this approach, does not consider the fetus as a person but consider it an animal and even inferior because he considers it lacking rationality and self-awareness, and in the same way that he allows the killing of animals, he allows the killing of the fetus as well. (Alireza Al Boyeh, "A woman's right to control her own body", Criticism and opinion, 62, 16(2011), 54)

2-3- The Moderate View

In this view, if the fetus has taken a human form, its abortion is immoral, otherwise it is permissible.

The view of Muslims is that abortion is allowed before the birth of the soul (4 months), in emergency conditions. Non-Muslims who accept this view do not have a single criterion for the human formation of the fetus, for example, John Noonan considers the criterion to be genetic codes and believes that before the fetus has genetic codes, it has a physical life and after that it has a human personality, while the new theories do not accept this point of view because they believe that the genetic codes are symmetrical with sperm coagulation. (Rasoul Zamani, "Abortion in Islamic Law", v. 1, (2006), 43)

2-4- Feminist Point of View

In this view, the moral and human condition of the mother is the priority, but the difference between this view and the liberal view is that in this view, the fetus is also important, but its importance is of the second degree, and he is considered the mother's guest, and the priority is to be accepted by the host. (Mohammad Javad Mowahedi, Mozghan Golzar Isfahani, "Examination of abortion from two perspectives of Deontological Ethics and Consequentialism ", 1(2011), 186)

In the article "Abortion from the perspective of feminist ethics", Suzan Shervin considers the fetus to be of secondary importance, but ultimately considers the mother to be the only final arbiter about whether abortion is ethical or not. Qom, (2012) 74-89)

2-5- Judith Jarvis Thomson's Detailed View

The purpose of this article is to criticize the views of this professor of moral philosophy at the University of Massachusetts, USA.

What she published in the form of an article in 1971 is that abortion is allowed in cases of involuntary pregnancy and it is not allowed in voluntary pregnancy. The difference between this view and the previous detailed view is that in the previous detailed view, the discussion was focused on whether or not the fetus is human, but in this view, the discussion is focused on the will of the mother in pregnancy. She believes that killing innocent people is permissible in some cases.

She believes that the fetus has the right to life and the mother has the right to make decisions about her body

Having the right to life of the fetus, the woman is not obliged to keep the fetus in her body.

Mrs. Thomson gives an example: she says, suppose you open your eyes one day and see that you are sleeping in a hospital behind a famous violinist who is suffering from kidney disease and you are connected to him. The doctor tells you that according to the tests, only you can help this artist genetically, and that's why the music lovers kidnapped you last night and brought you here. Of course, after 9 months the artist will recover and you will also move on with your life.

If you accept this request, you have made a great sacrifice, but you are not obliged to accept it.

No one denies the artist's right to life, but you also have the right to your own body

This relationship exists precisely in the case of the mother and the fetus. (Maryam Ahmadinejad, "An analysis on mothers' right to abortion as a violation of the individual's right to legal personality recognition in international law with an Islamic approach", *Islamic Human Rights Studies*, 6, 3 (2014) 14)

In other words, Thomson says that the fetus has the right to its own life, but it has the right to the mother's body when the mother has given it this right, and this is if the pregnancy was requested by the woman.

Therefore, in pregnancies caused by violence or despite the use of contraceptive methods, the fetus has the right to life, but he does not have the right to use his mother's body, unless the right is granted by the mother. Having the right to life also means not to be killed cruelly, and it doesn't mean not to be killed. (Hossein Atrak, "Abortion in the Philosophy of Ethics", *Ethics and Medical History*, 3, 1, (2008), 56)

3- Criticisms on Thomson's View

Thomson's view has been subjected to various criticisms for about 4 decades. Among these criticisms is the criticism of Francis J. Beckwith. Beckwith believes that there are at least nine problems with Thomson's argument, which can be placed under three general categories: moral, legal and ideological. In this article, the author mentions Beckwith's four drawbacks on Thomson and besides criticizing Thomson's argument, which is the main subject of the article; he also evaluates those four drawbacks.

3-1- Beckwith's First Criticism

He believes that sometimes, we are responsible for the requirements that we have not chosen in some works.

While Thomson, just by alleging the story of the violinist, intends to apply this example to all similar cases.

For example, a husband and wife, despite the use of contraceptive methods, become the owners of a fetus, and despite the husband's will, the woman decides to keep the fetus, and all the child protection laws in America support the mother's desire to keep the fetus. The owner of the egg cell requires the owner of the sperm to be responsible for the child. So, in addition to Thomson's argumentative drawback, the example also has problems. Or a drunken person, even though he did not intend to kill anyone before he was drunk, he is responsible for the murder of someone who crashed with him due to drunkenness.

3-2- Beckwith's Second Criticism

One of the most important moral principles of the family is that a person has requirements towards his children and family, and since this argument of Thomson distorts one part of these requirements, so it leads to the destruction of the family.

3-3- Beckwith's Third Criticism

There are several reasons that the fetus has the right to its mother:

- 1- Unlike the violinist who is artificially attached, the fetus is naturally attached to the mother. In other words, the mother's body is the only environment for the natural growth of the fetus, while the violinist's conditions are not normal. Stephen Schwartz also believes that because the mother's womb is the only environment in which the fetus can be, then the mother is obliged to preserve and take care of it.
- 2- Due to the fact that Thomson considers the newborn fetus as a human being and acknowledges that we are also obliged to protect the newborn fetus and it doesn't matter if that newborn is wanted or unwanted or born by what method, how can she not consider this duty and responsibility towards the fetus?

Beckwith adds that someone may object to my criticisms that someone who has become pregnant from rape is not responsible for the fetus, like the owner of the sperm, who is not responsible for the future of the donated sperm. It should be answered that the sperm owner's abdication of his responsibility does not lead to the death of anyone, unlike the mother's abdication of her responsibility to protect the fetus.

An example given by Beckwith:

Suppose a person's donated sperm is stolen by a doctor and then a woman gets pregnant from it. Law obliges the owner of the sperm to pay a monthly amount as an allowance for the fetus. Of course if the owner of the sperm kills this fetus or later this baby, he has committed murder. This example can be similar to a woman who has become pregnant by oppression, but at the same time, her responsibility is not removed.

Of course, just as the owner of the sperm cannot accept all the responsibilities of the resulting child, the mother cannot accept the responsibilities of the born fetus or newborn as well, but neither the owner of the sperm nor the mother has the right to kill the child.

3-4- Beckwith's Fourth Criticism

Thomson considers abortion equal to refusing to an act while it is a murder. Michael Levine, Schwartz and Archie Tasley believe that abortion is more than not helping the violinist and it is a kind of murder like someone who finds a baby on the front steps of his house and has to keep him for 9 months so then a couple will accept his responsibility. At the same time, by bringing this baby home, he will have a problem in the morning. But if he refuses to accept the baby under this excuse and the baby dies, he has committed murder. (L.e.f.: Levin Michael (1987), *Feminism and freedom* New Brunswick, N, J: Transaction, pp. 288-289)

4- Criticizing Beckwith's Criticisms

It seems that Beckwith's moral criticism of Thomson is not strong enough. Now we mention our criticisms on Beckwith's drawbacks:

4-1- Author's Criticism on the First Drawback of Beckwith

Thomson did not commit the allegorical fallacy, but expressed his argument in solving the conflict of rights using the example of the violinist.

4-2- Author's Criticism on the Second Drawback of Beckwith

First of all, in this critique, Beckwith expresses a theory based on the necessity of abortion and the destruction of family requirements, which does not provide evidence for this theory. In addition, the mother's freedom in choosing to keep the fetus may have a more positive effect on the health of the family.

Secondly, this argument is of less importance than considering the fetus as a human, which Beckwith did not provide a reason for, although she can reject this drawback by saying that Thomson also accepted the human nature of the fetus.

4-3- Author's Criticism on the Third Drawback of Beckwith

Criticizing the first part:

How does being or not being natural create rights? In addition, the fetus can be grown in other spaces as well.

Criticizing the second part:

Legal requirements cannot prove or disprove a philosophical issue, which happens to be the basis of moral philosophy.

4-4- Author's Criticism on the Fourth Drawback of Beckwith

It seems that Beckwith's fourth drawback is another expression of the same first drawback that was criticized.

Summary of Thomson's argument:

The premises of Thomson's argument:

Introduction 1: In abortion, the right to life of the fetus conflicts with the right of the mother to occupy her body.

Introduction 2: Cruel killing is immoral, not non-cruel killing.

Introduction 3: Abortion is non-cruel killing.

Result: So preserving the life of the fetus is not the duty of the mother (abortion permit).

5- Presuppositions of the Author's Argument

1- A fetus is a human being

2- Humans have the right to life, so the fetus has the right to life. Of course, Thomson accepted premise 1, but some people like Dawkins do not consider the fetus to be human.

Conclusion

The author's argument in invalidates Judith Jarvis Thomson's arguments.

Invalidating Thomson's first introduction:

Two things are opposed when they are in front of each other, and while the relationship between the others right to life is along our right to life (our non-vital rights). That is, we can fulfill our non-vital right when the right to life of another person is not taken away.

- An argument to prove the rights to life of others are alongside our rights to life:

The non-vital right is conceivable when we take our vital right for granted. So the meaning of the conflict between the right to life of another and our other rights is that before choosing or not choosing the right to life of another, we have chosen the right to life for ourselves and this preference has no reason. So this conflict is invalid and the longitudinal relationship is established.

Invalidity of Thomson's second introduction:

One of the prerequisites for proving a right is the existence of the right holder and the existence of obligees for that right, otherwise proving the right is meaningless. On the other hand, killing is deprivation of the right to life. Therefore, the obligees of that right are those who do not allow this right to be taken away. So the description of cruel and non-cruel killing is useless.

With the invalidation of premise 2, Thomson's premise 3 is also invalidated.

Result: So, all three premises of Thomson's argument were invalidated, so her argument in proving the permissibility of abortion is not complete. If preserving the fetus has a risk to the mother's life, we should choose the one with the lowest possible damage, and it seems that a childless mother has a less damage than a motherless child, although this rule is customary and can be exceptional.

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